D.B. Civil Writ Petition No.716/2000
Manohar Lal Tank Vs. U.O.I. & Ors.

DATE OF ORDER : 24/08/2006

Hon'ble The Chief Justice Shri S.N. Jha
Hon'ble Shri Justice Ajay Rastogi

Shri Rajendra Soni, for petitioner
Shri Kunal Rawat, for respondents

BY THE COURT [PER HON'BLE THE CHIEF JUSTICE] [ORAL]:

This writ petition on behalf of sole petitioner has been filed challenging the decision of Central Administrative Tribunal, Jaipur Bench dated 15th February, 1999 in O.A. No.414/98 by which the original application of the petitioner was dismissed in limine as not maintainable.

The Tribunal took the view that petitioner had approached the Tribunal earlier in O.A. No.393/97 and the application was barred by res judicata.

The dispute relates to appointment on compassionate ground. The father of the petitioner, Hanuman Prasad, died while in service in the Doordarshan under the Ministry of Information & Broadcasting, Government of India, on 21.8.94. His application for appointment on compassionate ground did not find favour and he approached the Tribunal in

O.A. No.393/97. By order dated 1/9/98, the application was disposed of with direction to Director General to re-consider his case for appointment on compassionate ground against a Group-D post after verifying the relevant data. On such consideration his claim was again rejected by the authority and the petitioner again approached the Tribunal in O.A. No.414/98.

We are in agreement with the counsel for petitioner that the claim having been rejected on re-consideration pursuant to order of the Tribunal, a fresh cause of action arose and therefore, the principle of res judicata was not attracted in the instant case. The Tribunal was, therefore, not right in dismissing the application as not maintainable. However, despite our favourable view on the point of maintainability we are not inclined to pass order in favour of petitioner. As indicated above, the dispute relates to appointment on compassionate ground. It is well settled by series of decisions of Apex Court that appointment on compassionate ground is a means of financial help to the members of bereaved family so that the family is able to tide over the crisis suddenly caused on account of premature death of the bread earner. It is not an employment guarantee scheme in the sense that irrespective of the time lapse one of the members of the family must necessarily be appointed on the death of employee. In the instant case, as seen above, father of the petitioner died on

21/8/94 i.e. 12 years ago and though the petitioner has been pursuing remedy during the intervening period, we do not think any direction for compassionate appointment can be issued after 12 years.

Article 16 of the Constitution envisages equal opportunity in the matter of public employment. Appointment on compassionate ground is an exception to the rule of equality. It has nevertheless been upheld as a token of recognition of the past service rendered by the employee. But it has been emphasized that such appointments should be made in appropriate case within a reasonable time. Appointment made after 12 years or so will be contrary to spirit of equality under Article 16. The petitioner was 30 years of age at the time of death of his father; by now he would be 42 years old and must have found some avenue to earn his bread. We do not think after lapse of 12 years, any direction can be issued for compassionate appointment.

In the above premises, we are not inclined to interfere with the order of Tribunal and issue any direction in favour of the petitioner.

The petition is dismissed.

[AJAY RASTOGI],J. [S.N. JHA],CJ.

FRBOHRA,JR.P.A.